IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 585 OF 2007

Rajesh Surenderabahadur Singh ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. M.S. Mohite, Advocate for the applicant.
Mr. U. V.Nikam, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 8TH MARCH, 2007.

P.C.

. Heard Mr. Mohite, learned Counsel for the applicant and Mr. Nikam, learned APP for the State. The applicant seeks anticipatory bail in Crime No. 396/2007 registered at Wagale Estate Police station for the offences punishable under section 498A, 406, 306 r/w section 34 of Indian Penal Code.

2. The prosecution case, in brief, is that deceased Kavita, daughter of first informant Rajnath Singh, was married to the present applicant on 25/2/2001. Kavita delivered a female child, namely Shiloka on 25/11/2002. However, thereafter the relations between the two got

strained and in June, 2006 Kavita left her husband's house and began to live with her parents at Wagle Estate, Thane. Since then Kavita and the present applicant were living separately. On 25/11/2006, birth day of their daughter Shiloka was being celebrated but the present applicant or his parents did not attend. Kavita, her daughter, her sister and sister's daughters went on terrace to celebrate the function and they were playing with the crackers. At about 11 p.m. Shiloka fell down from the terrace and died instantaneously. About that incident, accidental death case was registered. Next day her funeral was performed. During the night between 26th and 27th November, 2006 at about 3.20 a.m., Watchman of that building informed the father of Kavita that she had jumped from terrace of the building and committed suicide. After getting this information, her father and members of the family went to the spot and found her lying dead. At about 5 a.m. her father lodged a report at the police station and accidental death case came to be registered about the death of Kavita. After post-mortem examination, funeral was also performed. On 29/11/2006 Rajnath Singh, lodged a report alleging that at the time of marriage he had given cash, gold ornaments and other durable articles, a

scooter, sarees etc. to his daughter. However, there was a demand of four wheeler from the present applicant, which could not be satisfied and that was the cause of dispute between husband and wife. He also alleged that after the death of Kavita, her sister Anita had told him that Kavita had told her that she had herself thrown her daughter from the terrace on 25/11/2006, because of frustration and also that at the time of funeral of the child, the accused had asked Kavita, as to why she was alive and that she should also jump and commit suicide. Due to this, she must have committed suicide. According to the prosecution, thus the present applicant instigated her to commit suicide.

3. On the other hand, it is the contention of the present applicant that Kavita was insisting to stay with her parents, which was not acceptable to him and therefore, she had left the house and went to live with her parents in June,2006. He denied all the allegations made against him.

4. It is conceded by the learned APP that after the death of the child statement of Kavita was recorded by police, where in she had stated that the child had died

due to accidental fall from the terrace. It is also material to note that the report which was lodged by Rajnath Singh, immediately after the death of Kavita, reveals that after the death of daughter, Kavita was in depressed mood and she was weeping for the whole day and at about 3.20 a.m. he came to know from the Watchman that she had jumped from the terrace. Funeral of the child was performed on 26th November, 2006 when the present applicant had allegedly instigated his wife to jump from the terrace and to commit suicide. But that was not mentioned in the said report. dated 27/11/2006. It appears from that report due to the shock of death of the child she was depressed and was weeping and therefore, she committed suicide. The other allegations that she had herself thrown the child because of the ill-treatment at the hands of husband, that the husband had instigated her to commit suicide and that he used to make a demand of four wheeler and that this was the cause of the dispute, have come in the FIR lodged on 29/11/2006. Whatever may be the truth, the prosecution is based on the statements of the father and sister of the deceased only. Mr.Nikam contended that custodial interrogation of the present applicant is required for recovery of dowry articles, which were given Kavita at

the time of marriage. Mr.Mohite, learned Counsel makes a statement that at the time of leaving the house of her husband, deceased Kavita had taken away all the articles and whatever is remaining with him or at his house the applicant is willing to produce the same ‘ and will fully cooperate in the investigation.

5. Taking into consideration the circumstances, in which Kavita committed suicide about 5 months after leaving the house of her husband and particularly on the next day of death of her child, I find that custodial interrogation of the present applicant is not necessary.

6. Therefore, in the event of arrest in Crime No.396/2006, registered at Wagle Estate Police Station, the applicant be released on his executing P.R. of Rs. 15,000/- with one surety in like amount with conditions that he shall fully cooperate with police and shall make himself available to the police for interrogation as and when required for the purpose of interrogation. He shall also produce all the dowry articles, which may be still with him or at his house. The applicant is present in the Court room. He is directed to appear at the police station on 9/3/2007 at about 11 A.M., as

desired by the prosecution.

(J.H. BHATIA, J.)